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November 16, 2009  
*VIA ELECTRONIC MAIL*

Mr. Richard Zuraski  
Illinois Commerce Commission  
527 East Capitol Ave  
Springfield, IL 62701

**Re: MidAmerican Energy Company**  
**Comments on Draft Proposed Rules - Title 83, Part 455**

Dear Mr. Zuraski:

On behalf of MidAmerican Energy Company ("MidAmerican"), we appreciate the opportunity to comment on the proposed Rules designated as Title 83, Part 455 of the Illinois Administrative Code – Renewable Portfolio Standard and Clean Coal Standard for Alternative Retail Electric Suppliers and Utilities Operating Outside Their Service Areas ("Proposed Rules").

MidAmerican operates as an electric utility in Illinois pursuant to the Public Utilities Act ("Act"). MidAmerican also provides competitive retail electric service to customers outside of its service territory, as provided under Section 16-116 of the Act. MidAmerican has provided competitive service to Illinois customers since 1999.

The Proposed Rules generally represent a fair and appropriate initial approach to implementation of the underlying legislation and MidAmerican commends the Illinois Commerce Commission ("Commission") Staff for your efforts in the initial drafting process. However, MidAmerican is quite concerned that the Proposed Rules would require the disclosure of confidential and competitively sensitive information in a circumstance where there appears to be no need for nor potential benefit related to that disclosure. Accordingly, MidAmerican offers the following comments on the proposed Rules, and reserves the right to make additional and different comments as appropriate during the rulemaking process as it progresses.

**Section 455.120(c)**

**Section 455.120(c) should be deleted from the Proposed Rules because there is no statutory provision requiring it.**

MidAmerican takes very seriously its obligations to maintain the privacy of confidential customer information. Accordingly, MidAmerican operates in a manner that strives to respect the privacy of its customers to the maximum extent possible. With respect to its competitive customers, MidAmerican's contracts contain specific confidentiality provisions.



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In addition to maintaining the confidentiality of individual customer information, MidAmerican also strives to protect from disclosure aggregate information regarding its provision of electric service in the competitive market. This non-public information is competitively sensitive and its public disclosure could hurt MidAmerican's customers by impeding MidAmerican's ability to effectively compete in the competitive market.

Section 455.120(c) of the Proposed Rules provides:

- c) If metered electricity delivered to Illinois retail customers by an ARES or supplied by an electric utility in Illinois outside the utility's service territory are delivered or supplied during the compliance period pursuant to contracts that were not executed or extended after March 15, 2009, the ARES or utility shall provide a list, by utility service territory, of those Illinois retail customers who received electricity that was not delivered pursuant to contracts executed or extended after March 15, 2009. The list shall include the following information: customer name, and the quantity of electricity (in megawatt-hours) delivered to the customer during the compliance period that was not delivered pursuant to contracts executed or extended after March 15, 2009.

MidAmerican recommends deletion of this provision of the Proposed Rules.

Nothing in the underlying statute requires a provision such as Section 455.120(c). Under section 5/16-115D(a)(6) of the Act, the required procurement of renewable energy resources applies to electricity metered under post-March 15, 2009 contracts. In other words, the statutory obligation does not apply to electricity metered under pre-March 16, 2009 contracts or contract extensions. As such, there is no statutory basis to require the submission of information about pre-March 16, 2009 contracts or contract extensions, as required under Section 455.120(c) of the Proposed Rules. Accordingly, Section 455.120(c) should be deleted.

**Alternatively, Section 455.120(c) should be modified to protect and preserve confidentiality and prevent disclosure of confidential customer information.**

As stated above, MidAmerican strongly recommends deletion of Section 455.120(c) of the Proposed Rules as being unnecessary and improper under the terms of the Act. To the extent that Section 455.120(c) is retained in the Proposed Rules, it should be modified to protect and preserve the confidentiality of confidential customer information to prevent its disclosure. MidAmerican's contracts with its competitive service customers contain confidentiality provisions, and any requirement to make a disclosure of confidential information under the Proposed Rules may conflict with those contractual confidentiality provisions. Additionally, as also stated above, the disclosure of non-public, competitively sensitive confidential information would serve no useful purpose and could be highly detrimental to MidAmerican's customers as a result of impacting MidAmerican's business operations.





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Accordingly, while MidAmerican supports deletion of Section 455.120(c) of the Proposed Rules, if that provision is retained it should, at a minimum, be modified to eliminate any requirement for customer names or other customer-specific information. Instead, at most, it should require submission of only aggregate information, which should be accorded automatic confidential treatment under Section 5/4-404 of the Act, which provides:

Protection of confidential and proprietary information. The Commission **shall** provide adequate protection for confidential and proprietary information furnished, delivered or filed by any person, corporation or other entity.

(220 ILCS 5/4-404.) (Emphasis added.)

MidAmerican believes that the provision of aggregated data, subject to automatic confidential treatment in accordance with Section 5/4-404 of the Act, would satisfy any need that the Commission may have to make whatever analysis it needs to undertake to ensure compliance with the RPS requirements. Of course, if the Commission determines in a particular case that there is evidence of non-compliance with the RPS requirements, the Commission retains the authority to conduct a further investigation of facts surrounding that particular situation.

Accordingly, if Section 455.120(c) is retained in the Proposed Rules, it should be revised as follows:

- c) If metered electricity delivered to Illinois retail customers by an ARES or supplied by an electric utility in Illinois outside the utility's service territory are delivered or supplied during the compliance period pursuant to contracts that were not executed or extended after March 15, 2009, the ARES or utility shall provide the total number of customers and aggregated load (in megawatt-hours) a list, by utility service territory, of those Illinois retail customers who received electricity that was not delivered pursuant to contracts executed or extended after March 15, 2009. The list shall include the following information: customer name, and the quantity of electricity (in megawatt-hours) delivered to the customer during the compliance period that was not delivered pursuant to contracts executed or extended after March 15, 2009. Unless a request for non-confidential treatment is submitted with the information, all such information provided under this sub-section shall be accorded confidential treatment by the Commission for a period of not less than five years from the date of submission.

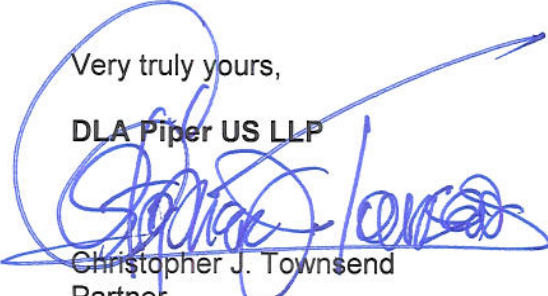
Thank you again for the opportunity to provide comments on the Proposed Rules. Please do not hesitate to contact us if you have any questions. Thank you.



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Very truly yours,

**DLA Piper US LLP**

A large, stylized handwritten signature in blue ink, appearing to read 'Chris Townsend', is written over the text.  
Christopher J. Townsend  
Partner

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